



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10
1200 Sixth Avenue
Seattle, WA 98101

JUN 17 1999

Reply To
Attn Of: OAQ-107

MEMORANDUM

SUBJECT: Hanford Multi-Media Inspection

FROM: Anita J. Frankel *Anita J. Frankel*
Director, Office of Air Quality

TO: Ron Kreizenbeck
Director, Office of Enforcement and Compliance

This is in response to Chuck Findley's memo of May 12, 1999, requesting that office directors research issues raised by Doug Smith concerning Hanford. Specifically this deals with the section "Collusion to violate a permit" regarding the turning off of a tritium monitor.

Jerry Leitch of my staff is familiar with the applicable federal and state regulations, the state action, and the reported facts. He has reviewed Doug Smith's memo as well as the report by EPA Special Agent Sandra Smith.

EPA's NESHAP regulation, found in 40 CFR 61.90, applies to this facility. Washington Department of Health (WDOH) has adopted this NESHAP into their regulations; however, they have not been delegated the federal authority to implement it. This arrangement requires dual processing of requests and interpretations, as the NESHAP is viewed as both a "state" rule via state adoption by reference and a non-delegated federal rule implemented by EPA.

It is EPA's interpretation that the monitor in question is not required by the NESHAP; rather, the Department of Energy voluntarily operated the monitor.

WDOH issued a Notice of Violation (NOV) on May 12, 1998, to USDOE for turning off the monitor, citing their "state" regulation. Region 10 chose to not take action in this matter because we did not consider it a violation of the NESHAP. The state NOV resulted in a compliance order which required the tritium monitor be operated continuously. The USDOE has agreed to comply with the compliance order. No penalties were levied.

We consider this issue resolved and recommend no further action. If you have any questions please call me, or Jerry Leitch of my staff for technical matters.

g/oaq/multimedia